

## INFORMATION PAPER

### SUBJECT: "Anti-Lobbying" Prohibitions

1. **PURPOSE.** To explain the "Anti-Lobbying" prohibitions.
2. **FACTS.** Generally, there are two pieces of legislation that restrict lobbying Congress with appropriated monies. The first is codified at 18 U.S.C. §1913, "Lobbying with Appropriated Moneys," hereinafter referred to as the "Anti-Lobbying Statute." The second is found in the FY 2006 DOD Appropriations Act, Sections 8001 and 8012.
  - a. The criminal Anti-Lobbying Statute provides:

No part of the money appropriated by any enactment of Congress shall, in the absence of express authorization by Congress, be used directly or indirectly to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, a jurisdiction, or an official of any government, to favor, adopt, or oppose, by vote or otherwise, any legislation, law, ratification, policy, or appropriation, whether before or after the introduction of any bill, measure, or resolution proposing such legislation, law, ratification, policy, or appropriation; but this shall not prevent officers or employees of the United States or of its departments or agencies from communicating to any such Member or official, at his request, or to Congress or such official, through the proper official channels, requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business, or from making any communication whose prohibition by this section might, in the opinion of the Attorney General, violate the Constitution or interfere with the conduct of foreign policy, counter-intelligence, intelligence, or national security activities. Violations of this section shall constitute violations of section 1352(a) of title 31.

The Anti-Lobbying Statute restricts both direct and indirect lobbying, but is principally applied to indirect lobbying (grass roots lobbying). Grass roots lobbying is where the government employee contacts third parties, either members of special interest groups or the general public, and urges them to contact their legislators to support or oppose something. It is important to note that the Anti-Lobbying statute permits communication, upon a Congressman or official's request, of "requests for any legislation, law, ratification, policy, or appropriations which they deem necessary for the efficient conduct of the public business."

- b. Section 8001 of the FY 2006 DOD Appropriations Act provides that no part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress. Section 8012 is more instructive in that it provides that none of the (appropriated) funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

### **3. EXAMPLES OF PERMISSIBLE AND IMPERMISSIBLE ACTIVITIES.**

a. It is permissible:

To provide factual information to members of Congress and their staff so that they have current and complete information on the Army and Fort Sam Houston's mission and interests.

To express views regarding the merits or deficiencies of legislation.

b. It is not permissible:

To urge State legislators or the general public to contact members of the U.S. Congress concerning Federal legislation or appropriations.

To attempt to influence congressional action on any legislation or appropriation matters pending before the Congress.

### **4. CAUTIONARY WARNING.** Remember when responding to Members of Congress or their staff, you should not:

Express views that are contrary to official positions taken by DOD or the Army.

Release any non-public government information (such as inside information about the BRAC process, upcoming procurements, etc.) in a public forum.

**5. CONCLUSION.** Government employees may properly respond to requests for information from Members of Congress or their staffs; however, they may not participate in activities or campaigns which are designed to generate support for, or opposition to, pending legislation. Both the content of what is said and the context of the activity are important in determining whether the activity violates the anti-lobbying legislation.